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CA-10-10043
2:08-CR-347-JCM (PAL)

ORDER

(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

1 (A) the final order in a habeas corpus proceeding in which the
2 detention complained of arises out of process issued by a
3 [s]tate court; or

4 (B) the final order in a proceeding under section
5 2255.

6 (2) A certificate of appealability may issue under paragraph (1) only
7 if the applicant has made a substantial showing of the denial of a
8 constitutional right.

9 (3) The certificate of appealability under paragraph (1) shall indicate
10 which specific issue or issues satisfy the showing required by
11 paragraph (2).

12 Under this section, the court may issue a certificate of appealability only when a movant makes a
13 substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). To make a substantial
14 showing, the movant must establish that “reasonable jurists could debate whether (or, for that matter, agree
15 that) the petition should have been resolved in a different manner or that the issues presented were
16 adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)
17 (internal quotations omitted).

18 The court finds that petitioner has not made the required substantial showing of the denial of a
19 constitutional right to justify the issuance of a certificate of appealability. Reasonable jurists would not find
20 the court’s determination that petitioner is not entitled to relief under section 2255 debatable, wrong, or
21 deserving of encouragement to proceed further. Therefore, the court declines to issue a certificate of
22 appealability.

23 Accordingly,

24 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that petitioner’s motion to vacate
25 pursuant to 28 U.S.C. section 2255 (doc. # 190) be, and the same hereby is, DENIED.

26 DATED July 23, 2014.

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UNITED STATES DISTRICT JUDGE